

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

MACEO M.

Petitioner,

vs.

EASTERN LOS ANGELES REGIONAL
CENTER,

Respondent.

OAH No. 2011110345

Early Intervention Services Act
(Gov. Code, § 95000 et seq.)

DECISION

This matter was heard by Humberto Flores, Administrative Law Judge with the Office of Administrative Hearings on November 28, 2011, in Alhambra, California.

Maceo M., petitioner, was represented by his mother.

Eastern Los Angeles Regional Center (regional center or ELARC) was represented by Felipe Hernandez, Chief of Consumer Services for the Regional Center.

Evidence was received and the matter was deemed submitted for decision.

ISSUE

Should the regional center provide funding for petitioner to receive hippotherapy (also known as equestrian therapy)?

FACTUAL FINDINGS

1. Petitioner is a 32-month-old boy who is a regional center consumer in the Early Intervention Program. He has been diagnosed with cerebral palsy. His symptoms include dystonia (lack of normal muscle tone) and spasticity.

2. In or about September 2011, Petitioner requested that ELARC provide funding for Petitioner to receive hippotherapy. According to the American Hippotherapy Association (AHA), “Hippotherapy is a physical, occupational, and speech language therapy treatment that utilizes equine movement as part of an integrated intervention program to achieve functional outcomes by providing multi-dimensional movement, which is variable, rhythmic and repetitive. The horse provides a dynamic base of support, making it an excellent tool for increasing trunk strength, control and balance.” (see exhibits 9 and F)

3. On October 31, 2011, the regional center sent a Notice of Proposed Action informing Petitioner’s parents that the regional center denied Petitioner’s request for funding for hippotherapy. Petitioner’s mother filed a request for hearing and this matter ensued. The regional center based its decision on its contention that Petitioner currently receives services (including occupational and physical therapy) that meet his developmental needs. The regional further contends that hippotherapy would be a duplicative with the physical therapy he currently receives. The regional center is not contending that hippotherapy is an experimental treatment modality.

4. Petitioner’s mother asserts that hippotherapy is not duplicative with physical therapy because hippotherapy is a unique treatment modality and Petitioner responds differently to each therapy. Rather than wait for a decision in this matter, Petitioner’s parents decided to obtain the service on their own. The cost of the hippotherapy is approximately \$100 per session. The family’s health insurance pays \$60 for each session because the therapist who provides the hippotherapy is not listed their insurance company’s network of authorized providers. Petitioner’s parents pay the balance of \$40 for each session. Petitioner’s mother testified that Petitioner thoroughly enjoys hippotherapy. Further, Petitioner’s mother has personally observed a marked improvement in Petitioner’s ability to sit up on the horse from his first hippotherapy session to his latest session.

5. Petitioner’s parents have not made a request of their insurance company to include Petitioner’s hippotherapist in its network of providers. Further, Petitioner’s hippotherapist is not vendored with the regional center.

LEGAL CONCLUSIONS

1. The California Early Intervention Services Act is set forth in Government Code, Chapter 1, sections 95000, et seq. The purpose of this legislation is to provide early intervention services for at risk infants and toddlers, to enhance their development and to minimize the potential for developmental delays. To reach this goal, Government Code, section 95001, subdivision (b)(2), directs a number of state agencies, including the Department of Developmental Services, “to collaborate with communities and families to provide a family-centered . . . early intervention system for infants and toddlers with disabilities.”

2. Government Code section 95004 provides that services for eligible infants and toddlers shall be provided pursuant to the regional center system existing under the Lanterman Developmental Disabilities Services Act, commencing with Welfare & Institutions Code § 4500, and “regional centers shall comply with the Lanterman Act and the regulations adopted pursuant to the Lanterman Act, and applicable federal law, including but not limited to those provisions relating to rate setting.”

3. Welfare & Institution Code section 4512, subdivision (b) states in part:

“Services and supports for person with developmental disabilities” means specialized service and supports or special adaptations of generic services and support directed toward the alleviation of a developmental disability or toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with a developmental disability, or toward the achievement and maintenance of independent, productive, normal lives. . . . Services and supports listed in the individual program plan may include, but are not limited to, . . . physical, occupational and speech therapy,

4. Welfare & Institutions Code section 4659 states in pertinent part:

(c) Effective July 1, 2009, notwithstanding any other provision of law or regulation to the contrary, regional centers shall not purchase any service that would otherwise be available from Medi-Cal . . . private insurance, or a health care service plan . . .

5. In this case, Petitioner has taken advantage of coverage offered by his insurance plan. However, Petitioner’s insurance company does not pay the full cost of the hippotherapy in part because Petitioner’s hippotherapist is not listed as an authorized provider in the insurance company’s network of providers. Further, the evidence did not establish whether Petitioner’s hippotherapist has applied to be an authorized provider for the insurance company. It is also noted that Petitioner’s hippotherapist has not been authorized as a vendor for the regional center. Therefore, Petitioner has not established that he is entitled to receive funding from the regional center for hippotherapy.

6. Grounds exist to affirm the decision of the Eastern Los Angeles Regional Center denying Petitioner’s funding request for Hippotherapy.

7. This Decision is based on the factual findings 1 through 6, Gov. Code §§ 95000 and 95004, Welfare & Institutions Code sections 4512, subdivision (b), and 4659, subdivision (c), the exhibits admitted at hearing, and the testimony of witnesses.

ORDER

The decision of the Eastern Los Angeles Regional Center denying Petitioner's funding request for hippotherapy is affirmed.

DATED: December 7, 2011

HUMBERTO FLORES
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is the final administrative decision. Both parties are bound by this decision. Either party may appeal this decision to a court of competent jurisdiction within 90 days.